

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 13844 of B. Goodman Co., pursuant to Sub-section 8207.2 and Paragraph 8207.11 of the Zoning Regulations, for special exceptions under Sub-paragraph 5102.472 to permit a change of use of the subject premises to a health care facility and under Sub-section 7205.3 to permit accessory parking spaces on a lot other than the lot upon which the principal use is located and for variances from the prohibition against allowing an addition to a non-conforming structure which now exceeds the allowable percentage of lot occupancy, the allowable floor area ratio requirements and the height limitations (Paragraph 7107.21), the floor area ratio requirements (Sub-section 5301.1 and Paragraph 7107.23), the rear yard requirements (Sub-section 5303.1 and Paragraph 7107.22) and the height requirements (Sub-section 5201.1 and Paragraph 7107.23) for a proposed health care facility in a C-2-A District at the premises 930 Farragut Street, N.W., (Square 3008, Lot 846).

HEARING DATES: September 8 and 29, 1982

DECISION DATE: September 29, 1982 (Bench Decision)

FINDINGS OF FACT:

1. The application appeared on the Preliminary Calendar for the public hearing of September 8, 1982. The affidavit of posting evidenced that the property was posted one day prior to the public hearing instead of the ten days as required by the Supplemental Rules of Practice and Procedure before the BZA. The affidavit of posting was filed one day prior to the public hearing instead of the five days as required by the Rules. The Chair ruled that insufficient notice was given to the public and denied the applicant's request to waive the Rules. The application was rescheduled to be heard on September 29, 1982.

2. The subject property is located at the southeast corner of the intersection of Farragut Street and Georgia Avenue, N.W. at premises known as 930 Farragut Street, N.W. It is in a C-2-A District.

3. The subject property is rectangular in shape and measures approximately 14,680 square feet in area. It is improved with a five story brick structure built in the 1920's as a 500 seat theater with apartments on the upper floors and commercial retail stores on the ground floor with frontage along Georgia Avenue. The building contains 42,918

square feet and is vacant except for certain retail uses on the ground floor. The structure occupies 100 percent of the lot.

4. An alley lot, Lot 852, Square 3008, is proposed to be used for off-street parking. The lot is located 105 feet southeast of the subject lot and is in an R-3 District. It is square in shape and contains approximately 8,100 square feet. It is occupied with delapidated garages and littered with debris and overgrowth.

5. To the north of the subject property across Farragut Street in the C-2-A District is a gasoline service station and a retail automobile tire store. To the northeast are row dwellings in the R-3 District. To the east across a fifteen foot public alley are row dwellings fronting on Farragut Street, garages, and a Pepco substation in the R-3 District. To the south on the east side of Georgia Avenue and adjacent to the site, there is a home improvement shop, followed by a restaurant, jewelry store and liquor store in the C-2-A District. To the west and southwest across Georgia Avenue are a seafood restaurant, fast-food restaurant, an office, a church, a coin operated laundry, a food store and a bank, all in the C-2-A District.

6. The contract purchasers of the property propose to renovate the existing structure into a long term health care facility equipped to treat patients with behavioral problems. The facility will accommodate both bed patients and ambulatory patients. The facility is being designed in accordance with standards being established by the D.C. Government for residential care for patients at St. Elizabeth's Hospital who do not currently need psychiatric care. The District of Columbia is under several court orders to release patients institutionalized at St. Elizabeth's. Pertinent to this case is the consent decree entered in Dixon et al. v. Schweiker et al., United States District Court for the District of Columbia, Civil Action No. 74-285. The facility will also be available for other patients who are District of Columbia residents and are referred through the Central Referral Bureau.

7. The proposed facility is a health care facility as defined in the Zoning Regulations and will have a capacity up to 160 patients. These patients will be housed in the area above the first floor. The first floor area will contain a pharmacy, a receptionist station, physical therapy room, administrative offices, a dining and general purpose area with a stage, kitchen facilities and storage for soiled linen. The contract purchasers propose in addition to the pharmacy to use the first floor area for other commercial uses to the extent space permits. There will also be an exterior court area on the eastern side of the property. Each of the floors on which the patients reside will have a

nourishment station, information area, drug distribution center, examination and treatment room, quiet area and bathing area. The partial basement of the facility will include mechanical equipment, storage, maintenance shops and an employees locker room.

8. The patients who will reside in the facility will be those deemed in need of twenty-four-hour-a-day care who do not need psychiatric care. Those patients will have no right to sign in and out.

9. Approximately 6,555 square feet of the facility will be devoted to recreational space. The facility will be accessible by way of a handicapped convenience ramp.

10. The facility will employ up to 170 persons of which the maximum number on any one shift will be seventy persons. Employees will work on three shifts providing twenty-four hour nursing care.

11. Security systems will be installed. Extra guards will be provided. A management company will be retained to manage the facility.

12. The contract purchaser testified that the proposed facility will meet all applicable code and licensing requirements. The contract purchaser will apply for the appropriate certificate of need upon completion by DHS of those standards. The contract purchaser will comply with building code and fire code requirements and all other applicable local and federal laws and regulations necessary to permit licensing of the facility.

13. Thirty-eight parking spaces are provided on an alley lot, Lot 852, Square 3008, as parking for the facility. The spaces consist of two twelve feet by nineteen feet spaces for the handicapped, sixteen nine feet by nineteen feet spaces and twenty eight feet by sixteen feet compact car spaces.

14. The theater would be removed from the structure. Certain ground level stores may be retained. The main and lobby entrance would be located along Farragut Street with a ramp leading to the front doors. An exterior court will be created by removing the roof of the theater. The court will be enclosed on all sides and landscaped. The floor of the theater would be leveled to provide for dining, kitchen and loading facilities. Loading would occur from the fifteen foot public alley by a recess in the building to prevent a truck from completely blocking the alley.

15. An addition along the Farragut Street side of the structure is proposed from the second through the fifth floors on the interior portion of the building. The

addition will provide more rooms and a more efficient use of the structure by creating a double loaded corridor similar to the George Avenue side. The addition is necessary to assure the economic feasibility of the project and to provide efficient installation of elevators and additional service facilities on each floor. The contract purchaser cannot provide the additional space by excavation of the basement since patients cannot be housed in either the basement or on the first floor. The addition will provide an increase in floor area of approximately 3,846 square feet or 0.26 FAR. It will be the same height as the existing structure. The addition will not be visible from the street.

16. The subject structure is a non-conforming structure in the C-2-A District. The allowable lot occupancy for residential use is sixty percent or 8,808 square feet. The building will occupy 13,050 square feet, requiring a variance of 4,242.1 square feet or forty-eight percent.

17. The maximum permitted floor area ratio is 2.5 or 36,700 square feet. The building with addition will contain 46,764 square feet, requiring a variance of 10,064 square feet or twenty-seven percent.

18. A rear yard of fifteen feet is required. None is provided, requiring a variance of 100 percent.

19. A maximum height of fifty feet is allowed. The existing building is sixty-one feet high. As the addition is the same height, a variance of eleven feet or twenty-two percent is required.

20. The subject structure will provide a court yard of thirty feet, where a minimum 20.33 feet is required in the C-2-A District. Approximately 6,555 square feet will be devoted to recreational space.

21. There are no other community-based residential facilities for five or more persons in the same square. There is a community based residential facility within 500 feet at the premises 911 Delafield Place, N.W. which is not similar in operation and is classified as a youth residential care home for foster care. The cumulative effect of the two facilities will not have an adverse impact on the neighborhood because of traffic, noise or operations.

22. The proposed thirty-eight off-street parking spaces will meet the parking needs of occupants, employees and visitors to the facility. Approximately seventy-five percent of the employees are expected to use public transportation to and from the site. It is anticipated that there will be ten visitors per week to the facility with the

percent lot occupancy of the site and the infeasibility of providing underground spaces on the site the applicant is requesting permission to provide the required parking off-site. The applicant's plans show the location of a parking lot approximately 105 feet southeast of the facility. The lot is located on an eighty feet by eight-five foot alley lot. The OPD was of the opinion that there is sufficient merit to grant this special exception based on the size of the lot and inability of the applicant to put the required number of spaces on the site due to the subject structure taking up a disproportionate amount of this space. The OPD inspected the proposed parking lot site. The site is presently developed with delapidated garage buildings, littered with debris and overgrown weeds. The site in its present condition was in OPD's opinion a blight and an eyesore. The rear yards of residentially occupied row structures which front on Farragut, Fifth and Emerson Streets face the site. The OPD believed that the clearing of this lot for use as a well maintained parking lot will not be objectionable.

31. The Office of Planning and Development was also of the opinion that this project is consistent with the Goals and Policies Act. Section 471 states that it is "the Goal of the District of Columbia to provide human services for children and youth, older adults, the handicapped and others needing special services." The policies of the District of Columbia for those with special needs include the promotion of "programs of needed health, social services and support levels for older adults to enable them to maintain themselves with a sense of security, dignity, respect and independence" and promotion of "conditions to enable handicapped persons to participate as fully as possible in the life of the city." The Board concurs in all the OPD findings and recommendations, as set forth herein.

32. The Department of Transportation, by report dated August 27, 1982, reported that Georgia Avenue is a minor arterial street with metered parking on both sides. Farragut Street is a local street with parking allowed on both sides at all times. The site is well served by Metrobus routes along Georgia Avenue. The DOT concluded that the proposed facility will not generate traffic that would adversely effect surrounding streets. The DOT report noted that fifty-three percent of the number of parking spaces proposed were compact size spaces. The DOT found this percentage was not an appropriate mix. The DOT recommended that the number of compact car spaces be reduced. The contract purchaser accepted the recommendations of the DOT and revised the parking layout as shown on Exhibit No. 37. The Board concurs in the DOT findings and recommendation.

position to supporting the project as long as all fire code requirements are met. The Department of Environmental Services had no objection. It reported that the water and sewer systems were adequate. The Police Department supported the application noting that it will be able to serve the facility without any measurable impacts on its operations.

29. As to the variance relief requested, the OPD reported that the existing subject structure is nonconforming in several respects. This factor, coupled with the requested FAR variance, creates the need for each of the variances requested except the variance from floor area ratio. The variances being asked for in this application are necessary only because plans call for an addition on the second through fifth floors. The proposed addition will not increase the structure's degree of nonconformity in regard to lot occupancy. The addition will not exceed the existing height of the building, and therefore will not increase the degree of nonconformity in this regard. The applicant's plans show the construction of a four story addition to the building which adds to the FAR and creates the need for a twenty-seven percent variance from this provision. The applicant contends that, in order to use the structure for this type of health care facility, with the number of beds and amenities to make it viable, a four story addition must be made to the premises. The OPD did not view the increase in FAR as a negative feature of the project, as the new addition to the structure will not visually alter the bulk of the building as viewed from Farragut Street or Georgia Avenue, nor will it block the light and air or effect the status quo of the environment as it relates to the neighboring residential properties given the alley separation to the east. The OPD viewed the proposed redesign and renovation of this structure for use as a health care facility as a desirable project in terms of its community benefit of providing safe, healthy, and decent housing for mentally and physically handicapped persons. The assortment of jobs either directly or indirectly related to the project, both during construction stages and once the facility is in full operation, is also a positive by-product of the facility if approved. The OPD noted that there is not an abundance of vacant land or perfectly suited and available existing structures in the city which could meet the qualifications of such a facility. In the opinion of OPD the variance relief will not affect the integrity, intent or pupose of the Zoning Regulations.

30. As to the special exception for the parking off-site, the OPD reported that the Zoning Regulations require that the proposed health care facility provide one parking space for every ten beds on the site. The 160 bed facility is required to provide sixteen spaces meeting the size requirements of the Regulations. Given the near 100

maximum number of visits on the weekends. Security will be provided for persons walking from the parking lot to the facility.

23. The alley lot, Lot 852, Square 3008, proposed for off-street parking is surrounded on three sides by a fifteen foot public alley system. The alley system has two points of ingress and egress into the block from both Farragut and Emerson Streets.

24. No off-street parking had been provided for the previous residential and theater use. The structure is credited with sixty-three spaces, the number of spaces which would be required if the structure were built under the present Regulations.

25. The proposed 160 bed facility is required to provide sixteen standard off-street parking spaces, one space for every ten beds on the site. Eighteen spaces which conform with the size requirements of the Regulations are provided. In total, thirty-eight spaces are proposed.

26. There will be no adverse traffic impact resulting from the proposed use. Because the facility will provide residential care for its occupants, there will be no traffic generation resulting from its occupants. Access to the off-street parking will be through a public alley. The facility is bounded on the west by Georgia Avenue, a major artery, and is well served by bus transportation.

27. The proposed operation will not generate noise or have any adverse impacts on the neighborhood. The resident activity levels will not generate noise above a level expected in any residential setting. The operational characteristics of the facility will not differ greatly from those of a large apartment house.

28. The Office of Planning and Development, by report dated September 1, 1982, recommended approval of the application. The OPD was of the opinion that the proposed facility will be of substantial public benefit and will not impair the intent, purpose and integrity of the Zoning Regulations. The OPD, through its coordination with other agencies, reported that the Department of Human Services had stated the contract purchaser had not filed for a certificate of need for the proposal and that the contract purchaser would have to wait for the Long Term Care Standards Plan and State Health Plans and Regulations to be completed by the DHS. As stated in the OPD report, the Fire Department could not support the application because of the existence of wood joist in the structure. However, the OPD through testimony at the public hearing, corrected the Fire Department's position as being in error concerning the wood joists and that the Fire Department would change their

33. Advisory Neighborhood Commissions 4C and 4D, by letters dated July 7, 1982 and August 24, 1982, respectively, recommended approval of the application. The recommendations were based on the overwhelming community support of the subject proposal. The Board concurs in the recommendations of both ANCs.

34. A petition in support of the application containing nineteen signatures of residents of the neighborhood was filed in the record. There were also letters of support of record.

35. There was no opposition to the application at the public hearing or of record.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing Findings of Fact and the evidence of record, the Board concludes that the applicant is seeking special exceptions and variances. In order to be granted the requested special exceptions, the applicant must demonstrate compliance with Sub-paragraph 5102.472 and Sub-section 7205.3 and Sub-section 8207.2 of the Zoning Regulations. The Board concludes that the applicant has so complied. The proposed facility will not exceed 160 beds and while there is one community-based residential facility within 500 feet of the property, the cumulative effect of the facilities will not have an adverse impact on the neighborhood because of traffic, noise or operations. Off-street parking will be adequate and appropriately located. The proposed facility will meet all applicable code and licensing requirements and will not have an adverse impact on the neighborhood because of traffic, noise, operations or the number of facilities in the area.

The Board concludes that the approval of the special exceptions will be in harmony with the general purpose and intent of the Zoning Regulations and Maps and will not tend to effect adversely the use of neighboring property in accordance with said Regulations and Map.

The Board further concludes that the requested variances are area variances, the granting of which requires the showing of some exceptional situation or condition of the property which causes a practical difficulty upon the owner. The Board concludes that the existing non-conforming structure and the need to design an economically feasible building which is also functional combine to cause the exceptional condition and practical difficulty, for the owners. The Board further concludes that the variances may be granted without substantial detriment to the public good and without substantially impairing the intent and integrity of the Zoning Regulations. Accordingly, it is ORDERED that


the application is GRANTED in its entirety SUBJECT to the following CONDITIONS:

1. Construction shall be in accordance with the plans marked as Exhibit No. 29A of the record with such interior modifications as are necessary to meet relevant licensing requirements.
2. The health care facility shall have a maximum of 160 beds and a maximum of 170 employees.
3. Parking shall be provided on Lot 852 in Square 3008, in accordance with the parking scheme marked as Exhibit No. 37 of the record, for as long as the subject building is used as a health care facility.
4. All areas devoted to driveways, access lanes, and parking areas shall be maintained with a paving of material forming an all-weather impervious surface.
5. No vehicle or any part thereof shall be permitted to project over any lot or building line or on or over the public space.
6. All parts of the lot shall be kept free of refuse or debris and shall be paved or landscaped. Landscaping shall be maintained in a healthy growing condition and in a neat and orderly appearance.
7. Any lighting used to illuminate the parking lot or its accessory building shall be so arranged that all direct rays of such lighting are confined to the surface of the parking lot.

VOTE: 5-0 (Connie Fortune, Walter B. Lewis, William F. McIntosh, Douglas J. Patton and Charles R. Norris to GRANT).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:

  
\_\_\_\_\_  
STEVEN E. SHER  
Executive Director

FINAL DATE OF ORDER: \_\_\_\_\_

JAN 27 1983

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF LICENSES, INVESTIGATIONS AND INSPECTIONS.

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